

DECLARATORY RESOLUTION
NO. 576-1927

For the opening of Fairfield Avenue, across, over and through the lands and right-of-way of the New York, Chicago and Saint Louis Railroad Company.

Adopted: August 18, 1927

Advertise Notice to Property Owners: Aug. 30th.-Sept. 6, 1927

Hearing: Sept. 22, 1927, 7:30 P.M.
Remonstrance, (T.U.A.)

Hearing: Sept. 29, 1927, 7:30 P.M.

Hearing: Oct. 18, 1927, 10:00 AM

Hearing: Oct. 25, 1927, 10 A.M.

Hearing: Dec. 13, 1927, 10 A.M.

Hearing: Jan. 17, 1928, 10 A.M.

Hearing: Jan. 31, 1928, 10 A.M.
T.U.A. until
Feb. 23, 1928, 7:30 P.M.

Hearing: T.U.A. until March 27,
1928, 10:00 A.M.
T.U.A. until March 29,
1928 (No record)

Hearing continued

ALL ACTION RESCINDED
October 13, 1942

Declaratory Resolution No. 576-1927.

For the opening of Fairfield Avenue, across, over and through the lands and right of way of the New York, Chicago and Saint Louis Railroad Company.

Resolved by the Board of Public Works of the City of Fort Wayne, Indiana, that it is desired and deemed necessary to open Fairfield Avenue, across, over and through the lands and right of way of the New York, Chicago and Saint Louis Railroad Company.

All as shown by a plan of such proposed ~~street~~ opening as above described now on file in the office of the Department of Public Works of said City.

The opening of Fairfield Avenue to be made by condemning and appropriating for street purposes the following described property: Commencing at the intersection of the east line of Fairfield Avenue with the south right of way line of the New York, Chicago and Saint Louis Railroad; thence north on the east line of Fairfield Avenue produced north to the north right of way line of said railroad; thence west along the north right of way line of said railroad to the west line of Fairfield Avenue produced south; thence south along the west line of Fairfield Avenue produced south to the south right of way line of said railroad; thence east along the south right of way line of said railroad to the place of beginning.

The cost of said opening of Fairfield Avenue as above described and all expenses connected therewith shall be paid for by the City of Fort Wayne, Indiana.

All of the above described streets and lots and lands affected by the above described street opening being situated in the Southwest Quarter of Section 2, Township 30 North, Range 12 East and within the corporate limits of the City of Fort Wayne, Indiana.

Adopted this 18th day of August 1927.

Attest: _____
Secretary.

Board of Public Works.

J. V. A.
ALL ACTION RESCINDED
October 13, 1942

PLAN FOR THE OPENING OF FAIRFIELD AVENUE ACROSS, OVER AND THRU THE LANDS AND RIGHT-OF-WAY OF THE NEW YORK, CHICAGO AND ST. LOUIS RAILROAD COMPANY.
DEC. RES. NO 576-1927.



BEFORE THE BOARD OF PUBLIC WORKS OF THE
CITY OF FORT WAYNE, INDIANA.

IN THE MATTER OF DECLARATORY)
RESOLUTION NO. 576 - 1927 FOR) REMONSTRANCE OF THE NEW YORK,
THE OPENING OF FAIRFIELD AVENUE) CHICAGO AND ST. LOUIS RAILROAD
COMPANY.

Comes now THE NEW YORK, CHICAGO AND ST. LOUIS RAILROAD COMPANY and respectfully shows your Honorable Board of Public Works of the City of Fort Wayne that it is the owner of all of the land subject to appropriation under the above Declaratory Resolution and, as such land owner, respectfully remonstrates against the opening of Fairfield Avenue in the manner set forth in said Declaratory Resolution No. 576, and for grounds of remonstrance alleges and says:

650-1
I. That no public necessity demands or requires the opening of said Fairfield Avenue in the manner proposed in said Declaratory Resolution and that the present grade crossings now existing are fully adequate to meet all of the demands and requirements of the public for the crossing of the railroad property of this remonstrant.

In this connection your remonstrant would more specifically show the Board that on the line of its right of way from Van Buren Street on the west to Clay Street on the east, constituting eleven city blocks, there are now nine grade crossings over the right of way of this remonstrant, to-wit: from west to east, one at Van Buren Street, one at Fulton Street, one at Ewing Street, one at Harrison Street, one at Calhoun Street, one at Clinton Street, one at Barr Street, one at Columbia Avenue and one at Clay Street.

That two of said grade crossings, viz. Fulton Street on the west and Ewing Street on the east, are in splendid condition; that the approaches and the pavement leading to the crossing and the crossing itself are in splendid condition and are, respectively, only three hundred (300) feet removed in either direction from the proposed crossing at Fairfield Avenue; that each of said present crossings, viz., Fulton Street and Ewing Street, conduct traffic to one square north of the right of way of this remonstrant, viz., to Superior Street, which Superior Street has no outlet to the north between Van Buren Street on the west and Wells Street on the east, and that necessarily all traffic which might be accommodated across the right of way of this remonstrant north on Fairfield Avenue would end on Superior Street and be compelled to travel east or west covering the same territory as traffic now using either the Fulton Street or Ewing Street crossing.

That the existing crossings at Fulton Street on the west and Ewing Street on the east are entirely adequate to meet all of the traffic demands for the crossing of the right of way of this remonstrant in that particular locality, and neither of said crossings are now being used to twenty-five (25%) per cent. of their capacity.

That any outlet to the north of Superior Street for any traffic which might use the proposed opening of Fairfield Avenue is permanently barred from Van Buren Street on the west to Wells Street on the east, first by the St. Mary's River, and second, by a strip of practically vacant and unused land which has a width of 1200 to 1500 feet, immediately north of the proposed opening.

II. That any possible benefits to be derived or ac-

cruing from the proposed opening of Fairfield Avenue could not possibly equal one-half of the costs incurred and damages inflicted by the establishment of such opening.

And in particular your remonstrant respectfully represents that its damages from such proposed opening of Fairfield Avenue would include the following items:

(a) Initial Expense:

Value of land to be taken for street purposes amounting to about 9000 square feet,	\$4500.00
Expense of taking up and abandoning portion of track,	14.00
Expense of raising telephone and telegraph wires,	400.00
Erection of shelter house for watchmen,	75.00
Installation of crossing gates,	1000.00
Installation of 3 crossing frogs, if crossing is to be used by street railway,	1665.00
Tarvia paving for crossing,	1200.00
Total initial expense,	<u>8854.00</u>

(b) Operating Expense:

Wages for crossing watchmen per month,	215.64
Delay in switching (about 25% per month)	155.00
Loss in revenue account of abandoning portion of existing team track facilities, per mo.	<u>447.85</u>
Total approximate operating expense and loss per month,	<u>818.49</u>

SUMMARY

(a) Initial expense as above,	8854.00
(b) Operating expense capitalized at 5%	<u>196437.60</u>

Total expense and loss to this remonstrant, 205291.60

That the installation of the proposed opening of Fairfield Avenue would create an additional burden upon your remonstrant in the establishment of an additional grade crossing, which will necessarily increase the possibility of damage to property and injury to, or death of, persons using the crossing, the expense of which cannot be computed.

That this remonstrant, as a result of the establishment

of such additional grade crossing, will have burdens imposed upon it in the way of operating expense which it cannot recover through its only source of revenue, to-wit, increased rates, by reason of the provisions of Paragraph 2 of Section 15-A of the Interstate Commerce Act as amended as follows:

"In the exercise of its power to prescribe just and reasonable rates the Commission shall initiate, modify, establish or adjust such rates so that carriers as a whole (or as a whole in each of such rate groups or territories as the Commission may from time to time designate) will, under honest, efficient and economical management and reasonable expenditures for maintenance of way, structures and equipment, earn an aggregate annual net railway operating income equal, as nearly as may be, to a fair return upon the aggregate value of the railway property of such carriers held for and used in the service of transportation; PROVIDED, That the Commission shall have reasonable latitude to modify or adjust any particular rate which it may find to be unjust or unreasonable, and to prescribe different rates for different sections of the country."

That such proposed extension of said Fairfield Avenue would not effectively improve transportation service but, on the contrary, would tend to retard such service, and, under the provision of the Interstate Commerce Act, above quoted, would result in taking of the property of this remonstrant without compensation and without due process of law.

III. That such proposed opening of Fairfield Avenue is, at this time, inexpedient and inopportune and will result in excessive and unnecessary expense, both to this remonstrant, and to the City of Fort Wayne, because of the present status of negotiations looking to the consummation of a contract for the elimination of grade crossings of streets at the right of way of your remonstrant, which negotiations are now pending before your Honorable Board and will be seriously embarrassed by the confirmation of said resolution.

And in particular your remonstrant would respectfully

represent that in the negotiations for grade elimination up to this date, it has been proposed and practically agreed upon to open LaFayette Street and close Barr Street as a part of such elevation project, which, if carried to a conclusion, will result in the same number of crossings as at present existing east of Harrison Street.

As a part of such negotiations, it has been tentatively proposed to open Fairfield Avenue and close Ewing Street, to which proposal this remonstrant would have no objection as a part of such grade elimination project, and your remonstrant cannot agree, from a practical standpoint or from the standpoint of expense to be incurred or from the standpoint that any traffic demand requires it, that both Fairfield Avenue and Ewing Street be opened across its tracks, either at grade or eventually under its tracks through subways. In this connection your remonstrant respectfully represents that the expense, both to the city and to your remonstrant, of establishing crossings at both Ewing Street and Fairfield Avenue, is not warranted by the volume of traffic or demands upon these two streets or any other public necessity, and that the expense incurred in the establishment of a grade crossing at Fairfield Avenue at this time would be irrevocably lost at the time of the establishment of the grade elimination project, and that no conditions now exist or can possibly arise before the final establishment of grade elimination, which could possibly warrant the expense entailed by the establishment of a grade crossing at Fairfield Avenue at this time.

WHEREFORE, your remonstrant, for all of the reasons hereinbefore set forth, respectfully petitions your Honorable Board that said Declaratory Resolution be rescinded, or that action thereon be deferred.

THE NEW YORK, CHICAGO AND ST. LOUIS RAILROAD
By J. Townsend & Thomas COMPANY,

Before the Board of Public
Works of the City of Fort
Wayne, Indiana

In the Matter of Declaratory
Resolution No. 576 - 1927
for the Opening of Fairfield
Avenue.

Remonstrance of
The New York, Chicago & St.
Louis Railroad Company.

TOWNSEND AND THOMAS
STANDARD BUILDING
FORT WAYNE, INDIANA
Attorneys for Remonstrant

Filed 7.3 P.M. Sept 22-1927

Board of Public Works
City of Fort Wayne
Ind.

Fort Wayne, Indiana, February

1926.

To the Honorable Board of Public Works
of the City of Fort Wayne, Indiana:

The undersigned Anna M. Keller respectfully petitions your Board to vacate all that portion of Fairfield Avenue (formerly known and designated as Griffith Street) in the City of Fort Wayne, Indiana, between Pearl Street and the New York Chicago and St. Louis Railroad lying West of a line which is sixty-six (66) feet West of the East line of Fairfield Avenue between Pearl Street and the New York Chicago and St. Louis Railroad.

Your petitioner would show that Fairfield Avenue is sixty-six (66) feet wide south of Pearl Street and north of the right of way of said Railroad Company; that this vacation will leave the street of the uniform width of 66 feet; that said portion the vacation of which is asked is of no use to the City for street purposes but would in the future be an unnecessary burden to the City for street maintenance; that this petitioner owns the land on both sides of Fairfield Avenue between Pearl Street and said Railroad;

WHEREFORE your petitioner asks that said first mentioned part of Fairfield Avenue be vacated as herein prayed.

Anna M. Keller

LA Williams & CR M. Webb Attys for Petitioner

REC'D & PLACED ON FILE

March 18, 1926.

Improvement Res. No.

Resolution Adopted:

Confirmed:

Bids Received:

Contract Awarded:

Contract and Bond:

Contractor:

Reported Completed:

Assessment Roll Confirmed: